

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EDDIE V. WATSON,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 21-232-GBW
	:	
CRAIG R. FITZGERALD,	:	
	:	
Defendant.	:	

MEMORANDUM ORDER

At Wilmington this 19th day of October, 2022,

1. On September 15, 2022, the Court ordered Plaintiff to show cause why the case should not be dismissed for failure to prosecute, no action having been taken since June 2, 2022. (D.I. 9) Plaintiff responds that he believes his case should move forward. (D.I. 10) He does not, however, provide any reasons why he has failed to prosecute the case.

2. Pursuant to Fed. R. Civ. P. 41(b), a court may dismiss an action “[f]or failure of the plaintiff to prosecute or to comply with [the Federal Rules] or any order of court” Although dismissal is an extreme sanction that should only be used in limited circumstances, dismissal is appropriate if a party fails to prosecute the action. *Harris v. City of Philadelphia*, 47 F.3d 1311, 1330 (3d Cir. 1995).

3. The following six factors determine whether dismissal is warranted:

(1) The extent of the party's personal responsibility; (2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a history of dilatoriness; (4) whether the conduct of the party was willful or in bad faith; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of other sanctions; and (6) the meritoriousness of the claim or defense. *Poulis v. State Farm Fire and Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984); *see also Hildebrand v. Allegheny Cty.*, 923 F.3d 128 (3d Cir. 2019). The Court must balance the factors and need not find that all of them weigh against Plaintiff to dismiss the action. *Emerson v. Thiel Coll.*, 296 F.3d 184, 190 (3d Cir. 2002).

4. Several factors warrant the sanction of dismissal including Plaintiff taking no action other than to respond to this Court's show cause orders and Plaintiff having failed to prosecute this matter.

THEREFORE, it is Ordered that:

1. The Complaint is DISMISSED without prejudice for Plaintiff's failure to prosecute this case.

2. The Clerk of Court is directed to CLOSE the case.


UNITED STATES DISTRICT JUDGE